

Title 86 Part 160 Section 160.110 Kinds of Uses And Users Not Taxed
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TITLE 86: REVENUE

**PART 160
SERVICE USE TAX**

Section 160.110 Kinds of Uses And Users Not Taxed

- a) *To prevent actual or likely multistate taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:*
 - 1) *The use, in this State, of property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State;*
 - 2) *the use, in this State, of property which is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of such property, to the extent of the amount of such tax properly due and paid in such other state;*
 - 3) *the temporary storage, in this State, of property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State. (Section 3-45 of the Act)*
- b) Since the exemptions in subsections (a)(1), (2) and (3), immediately above, do not exist as far as the Service Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Service Use Tax purposes insofar as the serviceman is merely collecting Service Use Tax to reimburse himself for Service Occupation Tax on the same property, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Service Use Tax liability. Therefore, the exemptions in subsections (a)(1), (2) and (3) above would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Service Occupation Tax liability on the part of the serviceman in the same transaction.
- c) *The Service Use Tax does not apply to the use, in this State, of property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State. (Section 3-60 of the Act)*

- d) *Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, such business shall not be taxed on its use, in Illinois, of used property which such business bought outside Illinois and used outside Illinois in the operation of such business for at least 3 months before moving such used property to Illinois for use here. (Section 3-60 of the Act)*
- e) *The Service Use Tax does not apply to the use of tangible personal property by any corporation, society, association, foundation or institution, organized and operated exclusively for charitable, religious or educational purposes, or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, when purchased from a serviceman as an incident to a sale of service. However, effective July 1, 1987, the Service Use Tax will apply to the entities noted above unless such entities have an active exemption identification number issued by the Department. (Section 2(3) of the Act) Effective March 17, 1965, purchases by State chartered banks and by Federal and State savings and loan associations for use, when the purchase is made from a serviceman as an incident to his sale of service, are subject to the Service Use Tax. Effective February 1, 1970, purchases by national banks for use, when the purchase is made from a serviceman as an incident to his sale of service, are also subject to the Service Use Tax, provided that such tax does not apply to property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.*
- f) *Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of game or game birds purchased incident to a sale of service at:*
 - 1) *a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]),*
 - 2) *an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or*
 - 3) *a hunting enclosure approved through rules adopted by the Department of Natural Resources. (Section 3-5 of the Act)*
- g) *Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of fuel acquired outside of this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce. (Section 3-5 of the Act)*
- h) *Since transfers of tangible personal property by de minimis servicemen who incur Use Tax as described in 86 Ill. Adm. Code 140.108 do not constitute sales of service under Section 2(g) of the Service Occupation Tax Act, customers of such de minimis servicemen do not incur Service Use Tax liability on such transfers.*
- i) *food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by*

diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 110/3-5].

(Source: Amended at 26 Ill. Reg. 4929, effective March 15, 2002)